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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.882 OF 2006
IN
NOTICE OF MOTION NO.1113 OF 2005
IN
SUIT NO.451 OF 2001

Mr.V.R. Maheshwari).. Plaintiff

Versus

Mr.K.G. Rao and others).. Defendants

Ms.Mamta Sheth for the Plaintiff.

Ms.Somya Srikrishna i/b.Mr.B.V.Phadnis for Defendant No.2.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 7TH JULY 2006

P.C.:

. The present Motion has been taken out for restoration of Notice of Motion No.1113 of 2005. This Motion has been dismissed on 2nd March 2006. Defendant No.2 has stated in his affidavit in support of the Motion that he was present in Court on all days when the Motion was listed. On 2nd March 2006 Defendant No.2 was unwell and his Advocate was unable to remain present for the reasons mentioned in the affidavit. The board collapsed on that day and Defendant No.2 was not able to make alternative arrangements to be represented. The Motion, therefore, came to be dismissed.

2. In my view, the cause made out in the affidavit in support of the Motion is genuine. However, Defendant No.2 ought to have been more vigilant. Hence, Notice of Motion No.1113 of 2005 is restored subject to payment of costs of Rs.2,000/- (Rupees Two Thousand only) to Maharashtra State Legal Services Authority.

3. Motion disposed off accordingly.